

**SAC AND FOX NATION TRIBAL CODE  
TITLE 32 ARTICLE 5**

**TITLE 32  
ADULT AND ELDERLY PROTECTIVE SERVICES ACT**

**ARTICLE 5  
RIGHTS**

**Section 501. Access to Reports; Release of Information; Exceptions**

(a) No person, official, or agency shall have access to the records relating to abuse, neglect, or exploitation except as follows:

- (1) A law enforcement agency investigating a report of known or suspected abuse;
- (2) A Tribal Prosecutor;
- (3) A physician who has before him or her a person whom he or she reasonably suspects may be abused;
- (4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused Vulnerable Adult;
- (5) Defense counsel in preparation for the defense of a person charged with the alleged abuse;
- (6) General Counsel for the Sac and Fox Nation; and
- (7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as amended, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness.

(b) The Department or appropriate law enforcement agency shall provide requested information to any person legally authorized by this section to have access to records relating to abuse, neglect, or exploitation, when ordered by the Tribal Court, or upon compliance by such person with identification requirements established by the rules and regulations of such law enforcement agency. Such information shall not include the name and address of the person making the report. The name and other identifying data of any person requesting or receiving information from the law enforcement agency and dates and circumstances under which requests are made or information is released shall be entered into the records of the Department or law enforcement agency.

[History: L. 2020, July 16; R-36-20:  
PUBLIC LAW # T 32 §501]

**Section 502. Confidentiality and Penalty**

(a) **Name of Reporter.** The name and person who reports abuse or neglect as required by this Act is confidential and shall not be released to any person unless the reporter

consents to the release or release is ordered by the Court. The Court may release the reporter's name only after notice to the reporter is given, a closed hearing is held, and the need for disclosure in order to protect the Vulnerable Adult is found to be greater than the reporter's right to confidentiality. The reporter's name shall be released only to the extent determined necessary to protect the Vulnerable Adult.

(b) **Investigation and Hearing Records.** Records on an investigation or court hearing concerning Vulnerable Adult abuse, neglect, or exploitation are confidential. Such records shall be open to the Vulnerable Adult and the Vulnerable Adult's family and caregiver unless the family and caregiver are suspected abusers. If the Director of the Department, law enforcement officers, Court officials, or any other person has reason to believe that the Vulnerable Adult was seriously injured or died as a result of abuse or neglect, the Court shall determine who has a reasonable cause to access the Vulnerable Adult's records.

(c) **Court Proceedings.** A proceeding held pursuant to this ordinance will, at the option of a Vulnerable Adult who is not incapacitated, will be closed and confidential. Persons who may attend are the Vulnerable Adult, the Vulnerable Adult's family and caregiver, representatives of the Department, necessary Court officials, attorneys for the parties, and Tribal Council members acting in their official capacity. Witnesses shall be sequestered. No person attending or testifying at a close hearing shall reveal information disclosed about the proceeding, unless such disclosure is required by law for the safety of the Vulnerable Adult.

(d) **Penalty.** Any person who violates any provision of this section shall be subject to criminal penalties pursuant to the Sac and Fox Criminal Code and/or a civil contempt of the Court and a civil penalty of up to five hundred dollars (\$500.00), per occurrence. Each day of a continuing violation shall be treated as a separate occurrence. If the violation is committed by an employee of the Tribe, the employee shall also be subject to appropriate employee disciplinary action, up to and including termination.

[History: L. 2020, July 16; R-36-20:  
PUBLIC LAW # T 32 §502]

### **Section 503. Rights of Vulnerable Adults, Their Families, and Caregivers**

(a) **Notice of Investigation.** A Vulnerable Adult, the Vulnerable Adult's family and/or caregiver shall be informed about a Vulnerable Adult abuse investigation upon its commencement. In the case of an emergency, they shall be informed as soon as possible, consistent with the primary purpose of immediate protection of the Vulnerable Adult. If the Vulnerable Adult retains capacity to consent to voluntary services and does not wish for a caregiver or family to receive notification of an investigation, the Department shall abide by the wishes of the Vulnerable Adult. If law enforcement commences a criminal investigation, its duty to inform parties of the investigation shall be the same as in any other criminal investigation.

(b) **Right to Refuse Services.** A Vulnerable Adult may refuse to accept Vulnerable Adult Protective Services, even if there is good cause to believe that the Vulnerable Adult has been or is being abused, neglected, or exploited, provided that the Vulnerable Adult is able to care for him/herself and has capacity to understand the nature of the services offered and knowingly refuses such services. The Vulnerable Adult family and caregiver may not refuse

services on behalf of the Vulnerable Adult but may refuse services provided to family members and caregivers.

(c) **Right to Refuse Entry.** A Vulnerable Adult and the Vulnerable Adult's family or caregiver may refuse to allow an investigator into their home. The investigator shall so inform the Vulnerable Adult and the Vulnerable Adult's family and/or caregiver of this right before seeking entry to the home. The investigator shall also inform them of the right of the investigator to seek a warrant to gain access as set forth in Section 109.

(d) **Service of Process.** The Vulnerable Adult and the Vulnerable Adult's family and/or caregiver shall be served with the petition filed pursuant to this Ordinance and notice of hearings. Notice of show cause and emergency hearings may be given to the family and/or caregivers by electronic or digital means if actual notice is shown.

(e) **Right to Attend Hearings.** The Vulnerable Adult and the Vulnerable Adult's family and/or caregiver have the right to attend any proceeding pertaining to the determination of the Vulnerable Adult's capacity, abuse, neglect, or exploitation, unless the Vulnerable Adult is capable and objects to the attendance of the family and/or caregiver. The Vulnerable Adult shall be present at all proceedings unless the Court determines that the Vulnerable Adult's health would be at risk at such proceeding. The Vulnerable Adult may also attend telephonically or by video conference.

(f) **Right to Counsel and Evaluation.** The Vulnerable Adult and Vulnerable Adult's family and/or caregiver have the right to be represented at their own expense by counsel at all proceedings. The Vulnerable Adult and the Vulnerable Adult's family and/or caregiver may, at their own expense, seek independent medical, psychological, or psychiatric evaluation of the Vulnerable Adult.

[History: L. 2020, July 16; R-36-20:  
PUBLIC LAW # T 32 §503]